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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/036,572      | 02/22/2002  | Thomas Hobson Outten | OUT-01              | 4040             |

7590

06/06/2003

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| EXAMINER |
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COCKS, JOSIAH C

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| ART UNIT | PAPER NUMBER |
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3743

DATE MAILED: 06/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/036,572

Applicant(s)

OUTTEN ET AL.

Examiner

Josiah C. Cocks

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 February 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 7 is/are rejected.
- 7) ☒ Claim(s) 5 and 6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### ***Drawings***

2. This application has been filed with informal drawings that are acceptable for examination purposes. When the application is allowed, applicant will be required to submit new formal drawings.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by *Jones et al.* (US # 5,809,990).

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*Jones et al.* discloses in Figures 1-7 a method and apparatus substantially as described in applicant's claims 1-4 and 7 including a mechanically operated valve (115) having gas inlet and outlet ports and positioned on the grill remove from a burner (101), a valve actuator arm (110) having a pivot (112) closely adjacent one end in spaced relation to the valve (see Fig. 1) and extending laterally beneath the burner and being spring biased (see spring loaded plunger 111) upwardly toward the burner on the other end (see col. 4, lines 14-27). *Jones et al.* also discloses an actuator member (see rod 109 and grate 107) supported by the other end of the valve actuator arm above the burner for receiving a cooking utensil when placed on the burner (see Fig. 1) wherein the actuator arm is pivotally supported adjacent the one end. The examiner considers that pivot (112) is adjacent the end of the actuator arm (110) contacting the valve and forms an elongated lever member between the cooking utensil and valve. *Jones et al.* further discloses that the actuator has an upright component integral therewith (see rod 109) extending through the burner and an offset end for clearing grill support members and providing central support for the cooking utensil (see Figs. 1 and 3), and the valve is located in closely spaced relation to the pivot and remove from the other end (see Fig. 1 and note that pivot 112 is closer to the valve end than the other end).

***Allowable Subject Matter***

5. Claims 5 and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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6. The following is a statement of reasons for the indication of allowable subject matter: The prior art does not teach or suggest an apparatus for shutting off the flow of gas and extinguishing the flame having the structure recited in claims 1 and 2 and further including the limitation that the valve actuator arm is spring biased upwardly by a coil torsion spring that is located upon the pivot.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. *Greech, Essig et al., Teixeira Filho et al., and Edwards et al.* are included to further show the state of the art concerning burners with means for sensing the presence of a cooking utensil in order to automatically shut off a gas flow. *Meriam, Michaels* and JP 10-73256 are included to further show the state of the art concerning mechanical pivot means for shutting off gas flow to a burner.


8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Josiah Cocks whose telephone number is (703) 305-0450. The examiner can normally be reached on weekdays from 7:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennett, can be reached at (703) 308-0101. The fax phone numbers for this Group are (703) 308-7764 for regular communications and (703) 305-3463 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.

jcc  
June 4, 2003

  
JOSIAH COCKS  
PATENT EXAMINER  
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